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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,901	08/20/2003	Alfred Lauper	S-01P03154	4653
24131	7590	06/26/2006	EXAMINER	
LERNER GREENBERG STEMER LLP P O BOX 2480 HOLLYWOOD, FL 33022-2480				FISHER, MICHAEL J
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/643,901	LAUPER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael J. Fisher	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 12 April 2006.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-5 and 8-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5 and 8-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5 and 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 6,127,917 to Tuttle.

As to claims 1, Tuttle discloses a method with a ticket (32, as best seen in fig 4), that has a processor module (60), a storage module (64), a receiver (56), a transmitter (58). Tuttle discloses transmitting from a first transmitter (50) to the ticket a first information unit comprising the zone (130, as best seen in fig 13), determining a timepoint based on pre-defined attendance (time to board the flight), receiving at the timepoint and ticket a second information unit comprising the identity (fig 13), transmitting to tickets egress information (inherent in that Tuttle discloses tracking position, 142 as best seen in fig 13).

Tuttle does not, however, teach storing the location information on the ticket but does teach the ticket as storing information (col 18, lines 26-48, as it is displayed, it must be stored), Tuttle teaches storing the information at the controller (132,134 as best seen in fig 13). Reversal of parts is old and well known in the art (In re Gazda, 104 USPQ 400,402; 219 F.2d 449 (CCPA 1955)). Therefore, it would have been obvious to one of ordinary skill in the art to have the ticket store the location information as Tuttle discloses the need to track location to ensure the user meets schedule imperatives (col 16, lines 44-55). It would be inherent that frequencies were set as they are used and in order to be sent and received, a frequency must be set. Further, Tuttle discloses the field as adjustable from near to far (col 6, lines 20-31).

As to claims 2, 3 and 15 Tuttle discloses the system as being intermittently switched to active (col 6, lines 60-65), which cycle is shown as time dependent and would, therefore, be cycle time dependent.

As to claim 4, Tuttle does not specifically teach deactivating the ticket following storage of attendance information. It would have been obvious to one of ordinary skill in the art to turn it off when attendance is achieved (making the flight) as Tuttle discloses shutting it off to save power and once the user is on the flight, the ticket would not longer be necessary.

As to claim 5, Tuttle discloses transmitting the information as Tuttle discloses it as being displayed (on monitors 170).

As to claims 6 and 7, As to claims 8 and 9, Tuttle discloses transmitting the second information unit by the first transmitter (as Tuttle discloses the system as being

used airport wide (col 18, lines 65-67) it would be inherent that the first transmitter transmits all information).

As to claims 10 and 16, Tuttle discloses transmitting further information after a random time period after receipt of the first information unit (before their flight, it would be random in that it is not disclosed as being set after the initial communication), this would include a third information unit such as location.

As to claim 11, Tuttle discloses transmitting the information repeatedly until it is received.

As to claim 12, Tuttle discloses identifying the attendance as debited on the ticket (158, as best seen in fig 14).

As to claim 13, Tuttle discloses a display module on the ticket for displaying the information (190, as best seen in fig 10).

As to claim 14, Tuttle discloses periodically switching the system on and off (fig 14).

As to claim 15, Tuttle discloses a system as discussed, including a cycle time. Tuttle does not, however, teach going active and inactive using a cycle time. It would have been obvious to one of ordinary skill in the art to use a cycle time to make the system inactive when not in use (such as at night when there are no flights) and to cycle it active when back in use (such as in the morning when flights resume).

### ***Response to Arguments***

Applicant's arguments filed 4/24/06 have been fully considered but they are not persuasive. As to arguments in relation to near field and far field, as discussed, Tuttle teaches this, changing frequencies would be obvious so the different transmitters don't interfere with each other. Further, both are analogous ways to limit transmission distance. As to saving information, Tuttle teaches this. It would be inherent that a duty cycle was transmitted as the system is shown to cycle. Without some instruction to do so, it could not.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MF 

6/22/06



Naresh Vig  
Patent Examiner  
AU 3629